

REMARKS

This amendment is submitted in response to the Examiner's Action dated July 11, 2006. Pursuant to Examiner's recommendation at numbered paragraph 1 (page 2) of the Office Action, Applicants have amended the claims to more clearly recite the features of within the claims. No new matter has been added, and the amendments overcome the various claim rejections and thus place the claims in better condition for allowance and/or appeal. Applicants respectfully request entry of the amendments to the claims. The discussion/arguments provided below reference the claims in their amended form.

CLAIMS REJECTIONS UNDER 35 U.S.C. § 101

In paragraph 1 of the present Office Action, Claims 1-3 and 5-9 are rejected under 35 U.S.C. § 101. Applicants disagree with Examiner's assessment of the Claims as being directed to non-statutory subject matter. However, in order to further prosecution of the claims and pursuant to Examiner's recommendation, Applicants have amended the claims by incorporating therein the element, which Examiner requested be added. The amendments overcome the §101 rejection, and Applicants respectfully request reconsideration and removal of the rejection in light of the amendment.

CLAIMS REJECTIONS UNDER 35 U.S.C. § 112

In the present Office Action, Claims 1 and 9 are rejected under 35 U.S.C. § 112, first paragraph. In addition, Claims 1-3 and 5-8 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have amended the claims to more clearly comply with the written description requirement and remove any indefinite features within the claims. The amendments overcome the §112 rejections, and Applicants respectfully request reconsideration and removal of the rejections in light of the amendments.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102

In paragraph 6 of the present Office Action, Claims 2, 7 and 9-11 are rejected under 35 U.S.C. §102(e) as being anticipated by *Naven* (U.S. Patent No. 6,810,043). Applicants have amended the claims to more clearly recite the novel features of the invention. The amendments overcome the §102 rejection and Applicants respectfully request reconsideration of the rejection in light of the amendments.

More specifically, however, Applicants claims are not anticipated by *Naven* because *Naven* does not teach or suggest several features recited by Applicants' claims. Among those features not taught (nor suggested) by *Naven* are the following:

- (a) "determining whether the queue had a previous position in the calendar and whether an initial new position was previously-calculated for the queue;"
- (b) "if the queue had a previous position in the calendar, determining whether a new position that would be presently assigned to the queue is earlier than the initial new position previously calculated in the calendar;"
- (c) "if the new position that would be presently assigned is earlier than the previously-calculated, initial new position, assigning the previously-calculated, initial new position to the queue;" and
- (d) "if the previously calculated initial new position is not earlier than the new position that would be assigned, assigning the new position that would be presently assigned to the queue;"

Naven provides the ability to "deal effectively with events that are to be scheduled at widely disparate intervals... without requiring the calendars to be large..." by establishing a master-calendar scheduling range (SR) and then scheduling events (cell transmissions) on a master-calendar and placing later events on a slave calendar when the later events are scheduled at a time that is more than the master-calendar SR away, (emphasis added; Abstract; see Summary, col. 3, ll 41-56). *Naven* states that "[w]hen an event is to be scheduled, calendar control circuitry (24) makes an entry corresponding thereto in the slave calendar (12) if the interval between a current time and a desired scheduling time for the event exceeds said scheduling range." Then, the control circuit monitors the slave calendar and "causes an entry therein whose corresponding event becomes within the scheduling range to be transferred to the master calendar (1)."'

Applicants have reviewed the entire reference, including all of the sections cited by Examiner and Applicants have found no teaching or suggestion of the above list of features recited by Applicants' claims. For example, nowhere within the cited sections is there a teaching or suggestion of a previously-calculated location being compared to a presently

identified/determined location for attaching a source/queue to the calendar and then completing the attaching (scheduling) of the source/queue to a location that is determined based on certain conditions relative to that comparison. Given the failure of *Naven* to teach any of the above claim features, it appears that Examiner has mischaracterized the teachings of *Naven* and has relied on that mischaracterization to support the rejections. Since, as is now shown, *Naven* fails to teach the above features of Applicants' claimed invention, Claims 2, 7 and 9-11 are allowable.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103

In the present Office Action, Claims 3, 12 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Naven*. Since these claims each depend on independent claims, which Applicants have already shown to be allowable, these claims are also allowable.

Further, Claims 1, 5, 6 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over "alleged" Admitted Prior Art (APA) in view of *Naven*. First, Applicants object to the use of the Applicants' specification by Examiner to support the present rejections. Applicants further request Examiner provide independent support for the rejections via actual published references. Further, Applicants make no statement herein as to the accuracy of Examiner's interpretation of the sections of Applicant's specification, which Examiner appears to be relying on.

However, even considering Examiner's analysis, *Naven* nor the combination of *Naven* with the alleged "APA" do not suggest to one skilled in the art the features recited by the above claims. As recited by independent Claim 1, Applicants' invention provides the following features (among others):

a mechanism for (a) determining when a flow is added to the source whether that source was previously at a first location in the time-based calendar and would have been assigned a previously-calculated location of lower time priority and (b) when the source would have been assigned a previously-calculated location, then (1) preventing the source from being placed at a second location that is ahead of the previously-calculated location in the time-based calendar and (2) placing the source at a third location from among the previously-calculated location or a next location that is after the previously-calculated location within the time-based calendar.

The limitations within *Naven* have already been described above with respect to the 102 rejections and are incorporated herein to overcome the present 103 rejections. Thus, the above

reference and combination does not render Applicants' claims unpatentable because the combination does not suggest key features recited by Applicants' claims, and those features would not have been obvious to one skilled in the art at the time of Applicants' invention. Given the above reasons, the claims are therefore allowable over the combination.

CONCLUSION

Applicants have diligently responded to the Office Action by amending the claims to clarify features within specific claims and overcome several rejections. Applicants have also provided arguments that show why the claims are allowable over the *Naven* and combinations that include *Naven*. Since the amendments and arguments overcome the §§ 101, 102, 103, and 112 rejections, Applicants, respectfully request issuance of a Notice of Allowance for all claims now pending.

Applicants further respectfully request the Examiner contact the undersigned attorney of record at 512.343.6116 if such would further or expedite the prosecution of the present Application.

Respectfully submitted,

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